



House of Representatives

File No. 649

General Assembly

February Session, 2012

(Reprint of File No. 88)

House Bill No. 5319
As Amended by House Amendment
Schedule "B"

Approved by the Legislative Commissioner
May 5, 2012

**AN ACT CONCERNING PERSONS AGGRIEVED BY DECISIONS OF
MUNICIPAL LAND USE BOARDS AND THE PENALTIES FOR
VIOLATING MUNICIPAL BLIGHT ORDINANCES.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (a) of section 8-8 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2012*):

4 (a) As used in this section:

5 (1) "Aggrieved person" means a person aggrieved by a decision of a
6 board and includes any officer, department, board or bureau of the
7 municipality charged with enforcement of any order, requirement or
8 decision of the board. In the case of a decision by a zoning commission,
9 planning commission, combined planning and zoning commission or
10 zoning board of appeals, "aggrieved person" includes any person
11 owning land in this state that abuts or is within a radius of one
12 hundred feet of any portion of the land involved in the decision of the
13 board.

14 (2) "Board" means a municipal zoning commission, planning
15 commission, combined planning and zoning commission, zoning
16 board of appeals or other board or commission the decision of which
17 may be appealed pursuant to this section, or the chief elected official of
18 a municipality, or such official's designee, in a hearing held pursuant
19 to section 22a-250, whose decision may be appealed.

20 Sec. 2. Subparagraph (H)(xv) of subdivision (7) of subsection (c) of
21 section 7-148 of the 2012 supplement to the general statutes is repealed
22 and the following is substituted in lieu thereof (*Effective October 1,*
23 *2012*):

24 (xv) Make and enforce regulations for the prevention and
25 remediation of housing blight, including regulations reducing
26 assessments and authorizing designated agents of the municipality to
27 enter property during reasonable hours for the purpose of remediating
28 blighted conditions, provided such regulations define housing blight
29 and require such municipality to give written notice of any violation to
30 the owner and occupant of the property and provide a reasonable
31 opportunity for the owner and occupant to remediate the blighted
32 conditions prior to any enforcement action being taken, and further
33 provided such regulations shall not authorize such municipality or its
34 designated agents to enter any dwelling house or structure on such
35 property, and including regulations establishing a duty to maintain
36 property and specifying standards to determine if there is neglect;
37 prescribe [fines] civil penalties for the violation of such regulations of
38 not less than ten or more than one hundred dollars for each day that a
39 violation continues and, if such [fines] civil penalties are prescribed,
40 such municipality shall adopt a citation hearing procedure in
41 accordance with section 7-152c.

42 Sec. 3. (NEW) (*Effective October 1, 2012*) (a) Except as provided in
43 subsection (b) of this section, any person who, after written notice and
44 a reasonable opportunity to remediate blighted conditions, wilfully
45 violates any regulation adopted pursuant to subparagraph (H)(xv) of
46 subdivision (7) of subsection (c) of section 7-148 of the general statutes,

47 as amended by this act, concerning the prevention and remediation of
 48 housing blight shall be fined by the state not more than two hundred
 49 fifty dollars for each day for which it can be shown, based on actual
 50 inspection of the property on each such day, that the blighted
 51 conditions continued to exist after written notice to the owner or
 52 occupant as provided in this section, and the expiration of a reasonable
 53 opportunity to remediate.

54 (b) Any person who is a new owner or new occupant shall, upon
 55 request, be granted a thirty-day extension of the notice and
 56 opportunity to remediate provided pursuant to subsection (a) of this
 57 section. For the purposes of this section, "new owner" means any
 58 person or entity who has taken title to a property within thirty days of
 59 the notice, and "new occupant" means any person who has taken
 60 occupancy of a property within thirty days of the notice.

61 Sec. 4. Section 7-148aa of the general statutes is repealed and the
 62 following is substituted in lieu thereof (*Effective October 1, 2012*):

63 Any unpaid [fine] penalty imposed by a municipality pursuant to
 64 the provisions of an ordinance regulating blight, adopted pursuant to
 65 subparagraph (H)(xv) of subdivision (7) of subsection (c) of section 7-
 66 148, as amended by this act, shall constitute a lien upon the real estate
 67 against which the [fine] penalty was imposed from the date of such
 68 [fine] penalty. Each such lien may be continued, recorded and released
 69 in the manner provided by the general statutes for continuing,
 70 recording and releasing property tax liens. Each such lien shall take
 71 precedence over all other liens filed after July 1, 1997, and
 72 encumbrances except taxes and may be enforced in the same manner
 73 as property tax liens.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	8-8(a)
Sec. 2	October 1, 2012	7-148(c)(7)(H)(xv)
Sec. 3	October 1, 2012	New section

Sec. 4	<i>October 1, 2012</i>	7-148aa
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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 13 \$	FY 14 \$
All Municipalities	Potential Revenue Gain	Minimal	Minimal
Various Municipalities	Potential Savings	Minimal	Minimal

Explanation

The bill changes the fine range of \$10 - \$100 per day to up to \$250 per day for certain violations of housing blight. The extent to which municipalities realize a revenue gain depends on the number of violations of housing blight and the number of violation days.

The bill also restricts zoning decision appeals to people who own land in Connecticut; this may result in savings to municipalities associated with reduced legal costs.

House "B" struck the underlying bill and its associated fiscal impact. The substitute language results in the fiscal impact described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to violators of housing blight.

OLR Bill Analysis**HB 5319 (as amended by House "B")******AN ACT INCREASING FINES FOR VIOLATIONS OF MUNICIPAL BLIGHT ORDINANCES.*****SUMMARY:**

Under current law, a person can appeal a zoning decision if he or she (1) is aggrieved by the decision or (2) owns land that abuts or is within 100 feet of land involved in the decision, which under case law includes land that meets these qualifications but is on the other side of the state's border. This bill restricts the abutting land owners who can appeal zoning decisions to people who own land in Connecticut. Generally, the bill applies to zoning decisions related to enforcement actions, special exceptions and exemptions, and variances.

By law, unchanged by the bill, an aggrieved municipal officer, department, board, or bureau charged with enforcing board orders, requirements, or decisions can also appeal.

The bill requires towns that have housing blight ordinances to include in their implementing regulations provisions mandating (1) written notice to the property's owner and occupant of a violation and (2) a reasonable opportunity to remediate the conditions before any enforcement action. Under current law, an ordinance can establish fines of between \$10 and \$100 for each day a violation continues and, if the town establishes fines, requires a citation hearing process for people to pay and appeal the fines. The bill renames these fines as civil penalties and makes a conforming change to the law imposing liens on property cited for violating anti-blight regulations.

It also imposes new fines of up to \$250 per day for a willful

violation of a blight regulation when it can be shown for each day, based on actual inspection of the property, that blighted conditions continued after a person received written notice and had a reasonable opportunity to remediate the conditions. This fine would not be subject to the citation hearing process and would require court proceedings.

The bill also allows new owners or occupants of a blighted property to request a 30-day extension with regard to these penalties.

EFFECTIVE DATE: October 1, 2012

*House Amendment "B" replaces the original bill, which increased municipal blight fines.

EFFECTIVE DATE: October 1, 2012

MUNICIPAL ANTI BLIGHT REGULATIONS AND NEW OWNERS OR OCCUPANTS

The bill provides relief for new owners or occupants by requiring municipalities to grant them, upon request, a 30-day extension of the notice and opportunity to remediate the property. Under the bill, new owners or occupants are people or entities who have taken title to, or occupied, respectively, a property within 30 days after the municipality issued the blight notice.

BACKGROUND

Related Case—Zoning Appeals

The Connecticut Supreme Court ruled that the statute granting the right of appeal to someone who owns land that abuts or is within 100 feet of land involved in a zoning decision applies to people who own land outside Connecticut.

The court found the statute unclear. It stated that planning and zoning advances certain public interests and authorizes landowners near the subject land use to enforce compliance with zoning regulations through an appeals process. The court found no reason that the statute intended to exempt out-of-state properties that might

feel the greatest and most immediate effect of a proposed development. The court found that allowing those out of state to challenge the legality of a proposed project protects the interests of a municipality and its citizens in uniform and harmonious development and in public health and safety (*Abel v. Planning and Zoning Commission of the Town of New Canaan*, 297 Conn. 414 (2010)).

Blight Ordinances

By law, any unpaid fine imposed under a blight ordinance is a lien on the real estate from the date of the fine (CGS § 7-148aa). A town can also choose to include in its blight ordinance provisions that impose special assessments on the property (CGS § 7-148ff).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 16 Nay 4 (03/07/2012)

Judiciary Committee

Joint Favorable

Yea 26 Nay 10 (04/10/2012)